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RUEHCV/AMEMBASSY CARACAS PRIORITY 2999
RUEHLP/AMEMBASSY LA PAZ APR 1026
RUEHPE/AMEMBASSY LIMA PRIORITY 2567
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C O N F I D E N T I A L QUITO 000365

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TREASURY FOR MEWENS
DEPT FOR WHA/EPSC FAITH CORNEILLE

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TAGS: [EMIN](#) [EINV](#) [ENRG](#) [EPET](#) [ECON](#) [PREL](#) [SENV](#) [EC](#)
SUBJECT: MINING REFORM: SEARCHING FOR A DIAMOND IN THE ROUGH

REF: A. QUITO 315
[B](#). QUITO 351

Classified By: DCM JEFFERSON BROWN, REASONS 1.4 (B&D)

[1](#)1. (C) Summary: The Constituent Assembly approved a measure cancelling thousands of largely unused mining concessions. Concessions that have been explored but not yet in operation will be frozen for six months until a new mining law is finalized. Small mining concessions and mines that are already operating are exempt from these provisions. The owners of the four most lucrative concessions, all Canadian companies, had already been attempting to renegotiate their contacts, but those negotiations have been shelved pending the new mining law. Many foreign companies are now contemplating international arbitration. End Summary.

Cancelled Thousands of Exploration Concessions

[1](#)2. (U) On April 18, the Constituent Assembly passed a new mining mandate cancelling all mining exploration concessions that had not undertaken any investment through 2007, presented an environmental impact assessment, or undertaken prior consultations. In addition, it cancelled any mining concession that had not paid required fees by March 31 of each year, and any concession in protected areas. It also cancelled all concessions exceeding three per individual or company. According to the media, this measure affects some 3,100 of the 4,112 active concessions and all 1,220 pending concession requests. (A mandate is legal measure, comparable to a law, which is valid while the Assembly is in session.)

[1](#)3. (U) The mandate allows small scale and cooperative mining concessions to continue their activities, provided they comply with the legal requirements. It also allows mining concessions that have already begun to produce to continue operating.

Large Mining Concessions Frozen

[1](#)4. (U) The mandate froze all other mining concessions until a new mining law is drafted and requires that the new law be drafted within 180 days.

[1](#)5. (C) It appears that the four companies that have found large, commercially attractive gold and copper deposits fall into this category. These four companies, all registered in Canada, had recently been involved in contract renegotiations

regarding proposed royalty payments with government officials at the Ministry of Mines and Petroleum (reftel a), and had thought that they might not be affected by the mandate. According to contacts at the Canadian Embassy, these companies have not been formally notified of where they stand under the mandate, but believe that their concessions will not be cancelled, although they will be forced to renegotiate to retain their concessions.

¶16. (C) According to the Canadian Embassy, they met after the mandate was approved with 14 of the 25 Canadian mining companies operating in Ecuador. After a year of now fruitless negotiations, many of the companies are tired of a dialogue that seems to be taking them on a wild roller-coaster ride with no clear destination. Some, if not all, are likely to start exploring legal alternatives, notably arbitration.

New State Mining Company

¶17. (U) The mandate also calls for the federal government to establish a new state mining company, the National Mining Company (Empresa Nacional Minera) which will have a roll ("intervendra") in all phases of mining activity "under conditions to preserve the environment and respect the rights of the people."

Comment

¶18. (C) Ecuador has extensive mineral deposits, reportedly worth as much as its petroleum deposits, but those resources have not been developed because of an uncertain mining regime that has been problematic for over a decade. Until this mandate, the Correa administration had been sending mixed messages about its intent to develop the mining sector, on the one hand calling for the cancellations of unused concessions and a new mining law but on the other hand negotiating with large mining companies. Correa himself argued several times on the importance of developing Ecuador's mining resources.

¶19. (C) The mining mandate, like the freeze on petroleum contract negotiations (reftel b), sends a confusing and largely negative message to private investors. In both cases the GOE had been negotiating with the investors to restructure their contracts in a way that would have increased revenues for the state while providing sufficient incentives for the companies to invest in mining and petroleum. Now those negotiations have been abruptly turned off for at least six months, and the new conditions for renewing negotiations are not at all clear. However, for all the uncertainty, it still appears that the government does not want to terminate the contracts and concessions of the large foreign investors. Given high current prices for natural resources, some investors may still have the appetite to deal with this uncertainty but others will probably place more faith in international arbitration.

Jewell